



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2020-0743; EPA-R05-OAR-2021-0886; EPA-R05-OAR-2022-0123; FRL-9567-01-R5]**

**Air Plan Approval; Indiana; Redesignation of the Indiana Portion of the Chicago-Naperville Area to Attainment of the 2008 Ozone Standard, NO<sub>x</sub> RACT Waiver, and Serious Plan Elements**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to find that the Indiana portion of the Chicago-Naperville, IL-IN-WI area (Chicago area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and to redesignate the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS, because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). EPA is proposing to approve, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2035 in the Chicago area. EPA is also proposing to approve a waiver, for the Indiana portion of the Chicago area, from the oxides of nitrogen (NO<sub>x</sub>) requirements of the CAA. EPA finds adequate and is proposing to approve Indiana's 2030 and 2035 volatile organic compound (VOC) and NO<sub>x</sub> Motor Vehicle Emission Budgets for the Indiana portion of the Chicago area. Finally, the VOC

reasonably available control technology (RACT), clean-fuel vehicle programs (CFVP), enhanced monitoring of ozone and ozone precursors (EMP), and Enhanced motor vehicle Inspection/Maintenance (I/M) SIP revisions. These SIP revisions satisfy the above requirements for a nonattainment area that is classified as a "Serious area" for the Indiana portion of the Chicago area under the 2008 ozone NAAQS.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0743 (regarding the serious area elements), EPA-R05-OAR-2021-0886 (regarding the redesignation), or EPA-R05-OAR-2022-0123 (regarding the NOx RACT waiver) at <https://www.regulations.gov> or via email to [arra.sarah@epa.gov](mailto:arra.sarah@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*

on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3490, [Mullen.Kathleen@epa.gov](mailto:Mullen.Kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is EPA proposing?
- II. What is the background for these actions?
- III. What are the criteria for redesignation?
- IV. What is EPA's analysis of Indiana's redesignation request?
- V. Has the state adopted approvable motor vehicle emission budgets?
- VI. Section 182(f) NO<sub>x</sub> exemption.
- VII. VOC RACT in the Indiana portion of the Chicago area.
- VIII. Clean-fuel Vehicle Programs (CFVP).
- IX. Enhanced Monitoring of Ozone and Ozone Precursors (EMP).
- X. Enhanced I/M in the Indiana portion of the Chicago area.
- XI. Proposed actions.
- XII. Statutory and executive order reviews.

**I. What is EPA proposing?**

EPA is proposing to take several related actions. EPA is proposing to determine that the Indiana portion of the Chicago area is attaining the 2008 ozone NAAQS, based on quality-assured

and certified monitoring data for 2019-2021, and that the Indiana portion of the Chicago area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The Indiana portion of the Chicago area consists of Lake and Porter Counties in Northwest Indiana. Indiana submitted this request on December 6, 2021, with additional information submitted on January 18, 2022. EPA is thus proposing to change the legal designation of the Indiana portion of the Chicago area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Indiana SIP, the State's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Chicago area in attainment of the 2008 ozone NAAQS through 2035. EPA finds adequate and is proposing to approve the newly-established 2030 and 2035 motor vehicle emissions budgets (or budgets) for the Indiana portion of the Chicago area. EPA is proposing to approve a NO<sub>x</sub> waiver, for the Indiana portion of the Chicago area, from the NO<sub>x</sub> requirements of section 182(f) of the CAA, included in Indiana's January 18, 2022, submittal. EPA is also proposing to approve the VOC RACT SIP revisions included in Indiana's December 29, 2020, and September 17, 2021, submittals. Finally, EPA is proposing to approve the CFVP and the EMP SIP certifications included in Indiana's December 29, 2020, submittal and the Enhanced I/M certification in Indiana's December 29, 2020, and January 18, 2022 submittals. These

elements satisfy the serious VOC RACT, CFVP, EMP, and Enhanced I/M requirements for the Indiana portion of the Chicago area for the 2008 ozone NAAQS.

## **II. What is the background for these actions?**

EPA has determined that ground-level ozone is detrimental to human health. On March 27, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all ozone monitoring sites in the area. See 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. The Chicago area was originally designated as a Marginal nonattainment area for the 2008 ozone NAAQS on June 11, 2012 (77 FR 34221), effective July 20, 2012. EPA reclassified the Chicago area from Marginal to Moderate nonattainment on May 4, 2016 (81 FR 26697), effective June 3, 2016. The Chicago area was again reclassified to Serious on August 23, 2019 (84 FR 44238), effective September 23, 2019.

## **III. What are the criteria for redesignation?**

Section 107(d) (3) (E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) the Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) (General Preamble) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms,

Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division,

November 30, 1993;

9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

**IV. What is EPA's analysis of Indiana's redesignation request?**

A. *Has the Indiana portion of the Chicago area attained the 2008 ozone NAAQS?*

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the entire Chicago area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air



quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons<sup>1</sup>, on average, for the 3-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix P to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from monitoring sites in the Chicago area for the 2019-2021 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Chicago area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

**Table 1. Annual fourth highest daily maximum 8-hour ozone concentrations and 3-year average of the fourth highest daily maximum 8-hour ozone concentrations for the Chicago-Naperville, IL-IN-WI 2008 ozone area (ppm)**

Site		Year			Average
	County	2019	2020	2021	2019-2021
Wisconsin					
55-059-0019	Kenosha	0.067	0.078	0.079	0.074
55-059-0025	Kenosha	0.066	0.078	0.072	0.072
Illinois					
17-031-0001	Cook	0.070	0.076	0.068	0.071
17-031-0032	Cook	0.071	0.077	0.077	0.075
17-031-0076	Cook	0.065	0.068	0.070	0.067
17-031-1003	Cook	0.069	0.077	0.068	0.071
17-031-1601	Cook	0.068	0.078	0.072	0.072
17-031-3103	Cook	0.064	0.068	0.060	0.064
17-031-4002	Cook	0.064	0.079	0.067	0.070
17-031-4007	Cook	0.066	0.072	0.069	0.069

<sup>1</sup> The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Indiana is March-October. See 80 FR 65292, 65466-67 (October 26, 2015).

17-031-4201	Cook	0.069	0.079	0.075	0.074
17-031-7002	Cook	0.069	0.074	0.078	0.073
17-043-6001	DuPage	0.070	0.073	0.069	0.070
17-089-0005	Kane	0.071	0.073	0.068	0.070
17-097-1007	Lake	0.066	0.076	0.077	0.073
17-111-0001	McHenry	0.070	0.076	0.069	0.071
17-197-1011	Will	0.060	0.067	0.065	0.064
Indiana					
18-089-0022	Lake	0.065	0.074	0.070	0.069
18-089-2008	Lake	0.065	0.071	0.068	0.068
18-127-0024	Porter	0.068	0.076	0.072	0.072
18-127-0026	Porter	0.071	0.067	0.066	0.068

The Chicago area's 3-year ozone design value for 2019-2021 is 0.075 ppm,<sup>2</sup> which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the Chicago area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Chicago area is attaining the NAAQS nor to approve the redesignation of the Indiana portion of the Chicago area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. As discussed in section IV.D.3. below, Indiana has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

*B. Has Indiana met all applicable requirements of section 110 and part D of the CAA for the Indiana portion of the Chicago area, and does Indiana have a fully approved SIP for the area under section 110(k) of the CAA?*

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that

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<sup>2</sup> The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

the state has met all applicable requirements under section 110 and part D of title I of the CAA (see section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (see section 107(d)(3)(E)(ii) of the CAA). EPA finds that Indiana has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, with the exception of the NO<sub>x</sub> exemption, Enhanced I/M, VOC RACT, CFVP, and EMP requirements of the CAA, EPA finds that all applicable requirements of the Indiana SIP for the area have been fully approved under section 110(k) of the CAA.

As discussed below, in this action EPA is proposing to approve Indiana's Enhanced I/M certification as meeting the serious I/M requirements of section 182(c)(3) of the CAA. Also, EPA is proposing to approve Indiana's VOC RACT submission as meeting the requirements of section 182(b)(2) of the CAA, CFVP certification as meeting the requirements of 182(c)(4) of the CAA, and EMP certification as meeting the requirements of section 182(c)(1) of the CAA. Finally, EPA is proposing to approve a waiver, for the Indiana portion of the Chicago area, from the NO<sub>x</sub> requirements of section 182(f) of the CAA.

In making these determinations, EPA ascertained which CAA requirements are applicable to the Indiana portion of the Chicago area, if applicable, whether the required Indiana SIP elements are fully approved under section 110(k) and part D of

the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465-66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club v. EPA*, 375 F.3d 537 (7<sup>th</sup> Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

EPA is proposing to determine that the Chicago area has attained the 2008 ozone standard. If that determination is finalized, under 40 CFR 51.918, the requirements to submit certain planning SIPs related to attainment, including

attainment demonstration requirements (the reasonably available control measures (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

"The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas." (General Preamble at 13564)

See also Calcagni memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.").

1. Indiana has met all applicable requirements of section 110 and part D of the CAA applicable to the Indiana portion of the

Chicago area for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans.

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, e.g., NO<sub>x</sub> SIP call, the Clean Air Interstate Rule

(CAIR), Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked to a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. See 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426-27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174-53176

(October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). See also the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Indiana's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.<sup>3</sup>

b. Part D Requirements.

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Chicago area is classified as serious under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in sections 182(a), (b), and (c) (Marginal, Moderate, and Serious nonattainment area

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<sup>3</sup> EPA has previously approved provisions of the Indiana SIP addressing section 110 elements under the 2008 ozone NAAQS; 80 FR 23713 (April 29, 2015), 84 FR 46889 (September 6, 2019).



requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements.

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than three years from the date of the nonattainment designation.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting RACT on existing sources. Because attainment has been reached in the Chicago area, no additional measures are needed to provide for attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. See 40 CFR 51.1118.

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. EPA approved Indiana's RFP plan and RFP contingency measures on February 13, 2019 (84 FR 3711).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement was superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has previously approved Indiana's NSR program on February 13, 2019 (84 FR 3711). However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that the NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Indiana has demonstrated that the Indiana portion of the Chicago area will be able to maintain the 2008 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. See rulemakings for Detroit, Michigan (60 FR 12467-12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469-20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834-31837, June 21, 1996). Indiana's PSD program will become effective in the Indiana portion of the Chicago area upon

redesignation to attainment. EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Indiana SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the implementation of contingency measures if the area fails to make reasonably further progress or to attain the NAAQS by the attainment deadline. As noted previously, EPA approved Indiana's contingency measures for purposes of RFP on February 13, 2019 (84 FR 3711). With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Chicago area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). See also 40 CFR 51.918.

ii. Section 176 Conformity Requirements.

Section 176(c) of the CAA requires that federally supported or funded projects conform to the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or

approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity), as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements<sup>4</sup> as not applying for purposes of evaluating a redesignation request under section 107(d), because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Indiana has an approved conformity SIP for the Indiana portion of the Chicago area. See 84 FR 3711 (February 13, 2019). Indiana has submitted 2030 and 2035 VOC and NO<sub>x</sub> motor vehicle emissions budgets (or budgets) for the Indiana portion of the Chicago area. The metropolitan planning organization that covers the Indiana portion of this area must use these budgets in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

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<sup>4</sup> CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of motor vehicle emissions budgets, such as control strategy SIPs and maintenance plans.

iii. Subpart 2 Section 182(a), (b), and (c) Requirements.

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the ozone nonattainment area. EPA approved Indiana's base year emissions inventory for the Indiana portion of the Chicago area on April 7, 2017, and (82 FR 16934) February 13, 2019, (84 FR 3711).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Indiana portion of the Chicago area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS. See 57 FR 8082 (March 6, 1992).

Section 182(a)(2)(B) requires each state, with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle I/M program prior to the 1990 CAA amendments, to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA Amendments or already in the SIP at the time of the CAA Amendments, whichever

is more stringent. For the purposes of the 2008 ozone standard and the consideration of Indiana's redesignation request for this standard, the Indiana portion of the Chicago area is not subject to the section 182(a)(2)(B) requirement, because the area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA Amendments and because Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS.

Section 182(a)(3)(B) requires the submission of an emission statement SIP. EPA approved Indiana's emission statement SIP for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on April 7, 2017 (82 FR 16934) and on February 13, 2019 (84 FR 3711).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. EPA approved Indiana's attainment demonstration, RFP plan, and RFP contingency measures for the Indiana portion of the Chicago 2008 ozone NAAQS Moderate nonattainment area on February 13, 2019 (84 FR 3711). Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard. If EPA finalizes approval of the redesignation of the area, EPA will take no further action on the attainment demonstration submitted by Indiana.

Section 182(b)(2) requires states with Moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) all sources covered by a Control

Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. If no major non-CTG sources of VOC emissions or no sources in a CTG category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. Indiana has adopted and submitted VOC RACT rules and negative source declarations to cover all applicable CTGs, and major non-CTG sources. EPA approved Indiana's Negative Declaration for the Oil and Gas CTG for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on December 13, 2019 (84 FR 68050). EPA approved Indiana's VOC RACT program for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711).

Indiana submitted VOC RACT SIP revisions for the Indiana portion of the Chicago area under the serious classification on December 29, 2020, and on September 17, 2021. For the reasons discussed in section VII., below, EPA is proposing to approve the SIP revisions submitted by Indiana as meeting the section 182(b)(2) RACT requirements for the Indiana portion of the Chicago area under the 2008 ozone NAAQS.

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the

highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps.

Section 182(b)(4) requires a Basic motor vehicle inspection and maintenance (I/M) program for each state with a Moderate ozone nonattainment area. EPA approved Indiana's Basic I/M program certification for the Indiana portion of the Chicago area for the Moderate classification of the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711).

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Indiana currently has a fully-approved part D NSR program in place. EPA approved Indiana's NSR SIP on February 13, 2019 (84 FR 3711). EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071). The state's PSD program will become effective in the Indiana portion of the Chicago area upon redesignation of the area to attainment.

Section 182(f) establishes NO<sub>x</sub> requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO<sub>x</sub> reductions would not contribute to attainment. As discussed in section VI. below, we are proposing such a determination for the Indiana portion of the Chicago area as requested by Indiana. If EPA grants Indiana's NO<sub>x</sub> waiver request, Indiana need not have fully approved NO<sub>x</sub> control measures under section 182(f) for the Indiana portion of the



Chicago area to be redesignated to attainment.

Section 182(c)(1) of the CAA requires states with nonattainment areas classified Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO<sub>x</sub> and VOC. EPA initiated the Photochemical Assessment Monitoring Stations (PAMS) program in February 1993. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as Serious, Severe, or Extreme. On March 16, 1994 (59 FR 12168), EPA approved Indiana's SIP submission establishing an EMP in the Indiana portion of the Chicago area as required by Section 182(c)(1) of the CAA.

In section IX. below, EPA is proposing to approve Indiana's certification that its current EMP meets the Serious requirements for the Indiana portion of the Chicago area for the 2008 ozone NAAQS. EPA will not finalize this redesignation until we've approved the EMP program.

CAA section 182(c)(3) requires states with ozone nonattainment areas classified as Serious or higher to adopt and implement an Enhanced I/M program. Indiana submitted Enhanced I/M revisions on December 29, 2020, and January 18, 2022. For the reasons discussed in section X., below, EPA is proposing to approve the Indiana I/M certification as meeting the section 182(c)(3) Serious Enhanced I/M requirements for the Indiana portion of the Chicago area under the 2008 ozone NAAQS. EPA will not finalize this redesignation until it has approved the

I/M program certification.

CAA section 182(c)(4) requires states with ozone nonattainment areas classified as Serious or higher to submit a SIP revision describing implementation of CFVP, as described in CAA title II part C (40 CFR 88). EPA approved Indiana's CFVP on March 21, 1996 (61 FR 11552). On July 29, 2021 (86 FR 34308), EPA published a final rule in which EPA determined that vehicles and engines certified to current emission standards under 40 CFR part 86 or 1036 are deemed to also meet the Clean Fuel Fleet standards as Ultra Low-Emission Vehicles.

In section VIII. below, EPA is proposing to approve Indiana's certification that its current CFVP meets the serious CFVP requirements for the Indiana portion of the Chicago area for the 2008 ozone NAAQS. EPA will not finalize this redesignation until we've approved the CFVP program.

The remaining section 182(c) requirements for areas classified as serious include: an attainment demonstration, RFP, and RFP contingency measures. These elements are not needed to redesignate the Indiana portion of the Chicago area because the area has attained the 2008 ozone NAAQS. This rationale is outlined in 40 CFR 51.918, the general preamble, and the Calcagni memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.") EPA believes that it is reasonable to interpret these provisions so as not to require

areas that are meeting the ozone standard to make the SIP submissions to EPA described in the provisions as long as the areas continue to meet the standard. If such an area were to monitor a violation of the standard prior to being redesignated to attainment, however, the area would have to address the pertinent requirements and submit the SIP revisions described in those provisions to EPA.

Thus, as discussed above, with approval of Indiana's 182(f) NOx exemption, Enhanced I/M certification, VOC RACT, CFVP certification, and EMP requirements of the CAA, EPA finds that the Indiana portion of the Chicago area will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Indiana portion of the Chicago area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Indiana has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes approval of Indiana's section 182(f) NOx exemption, Enhanced I/M, VOC RACT, CFVP, and EMP submissions as meeting the Serious requirements of the CAA, EPA will have fully approved the Indiana SIP for the Indiana portion of the Chicago area under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request

(see the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-990 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (see 68 FR 25426 (May 12, 2003) and citations therein).

*C. Are the air quality improvements in the Chicago area due to permanent and enforceable emission reductions?*

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Indiana has demonstrated that the observed ozone air quality improvement in the Chicago area is due to permanent and enforceable reductions in VOC and NOx emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2011 and 2019. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Chicago area and other portions of the area have implemented in recent years. In addition, Indiana provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the

information summarized below, EPA finds that Indiana has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

a. Regional NO<sub>x</sub> Controls.

*CAIR/ CSAPR*. Under the "good neighbor provision" of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Indiana, to prohibit emissions consistent with annual and ozone season NO<sub>x</sub> budgets and annual sulfur dioxide (SO<sub>2</sub>) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter (PM<sub>2.5</sub>) NAAQS and was designed to mitigate the impact of transported NO<sub>x</sub> emissions, a precursor of both ozone and PM<sub>2.5</sub>, as well as transported SO<sub>2</sub> emissions, another precursor of PM<sub>2.5</sub>. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896, modified, 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO<sub>x</sub> annual and ozone season programs beginning in 2009 and the

SO<sub>2</sub> annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 PM<sub>2.5</sub> NAAQS, and the 2006 PM<sub>2.5</sub> NAAQS. Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Indiana, to meet annual and ozone season NO<sub>x</sub> budgets and annual SO<sub>2</sub> budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO<sub>x</sub> trading program for EGUs in eastern states, including Indiana, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20 percent reduction in ozone season NO<sub>x</sub> emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO<sub>x</sub> emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Federal Emission Control Measures.

Reductions in VOC and NO<sub>x</sub> emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur

in the future. Federal emission control measures include the following:

*Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards.* On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NOx and for particulate matter. The VOC and NOx tailpipe standards for light-duty vehicles represent approximately an 80 percent reduction from today's fleet average and a 70 percent reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60 percent reduction in both fleet average VOC and NOx and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50 percent reduction from current standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

*Heavy-Duty Diesel Engine Rules.* In July 2000, EPA issued a

rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO<sub>x</sub>, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO<sub>x</sub> and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that by 2015 NO<sub>x</sub> and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NO<sub>x</sub> and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

*Non-road Diesel Rule.* On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The SO<sub>2</sub> limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO<sub>x</sub> emissions



from these non-road diesel engines by approximately 90 percent. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

*Non-road Spark-Ignition Engines and Recreational Engine Standards.* On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NOx emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

*Category 3 Marine Diesel Engine Standards.* On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, are expected to result in a 15 to 25 percent reduction in NOx emissions from

these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO<sub>x</sub> from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

## 2. Emission reductions.

Indiana is using a 2011 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the Chicago area as nonattainment. Indiana is using 2019 as the attainment year, which is appropriate because it is one of the years in the 2019-2021 period used to demonstrate attainment.

Area and non-road mobile emissions were collected from data available on EPA's Air Emissions Modeling website<sup>5</sup>. For the 2019 attainment year, area and non-road source emissions inventory estimates were based on the data interpolation between 2016 base year and the 2023 projection year of EPA's 2016 version 1 Emission Modeling Platform.

IDEM compiled 2011 and 2019 actual point source and EGU-point source emissions from state inventory databases.

On-road mobile source emissions were developed in conjunction with the Northwestern Indiana Regional Planning

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<sup>5</sup> <https://www.epa.gov/air-emissions-modeling/2016v1-platform>

Commission (NIRPC), the Metropolitan Planning Organization for the area that includes Lake, Porter, and LaPorte Counties. NIRPC maintains a travel demand forecast model that is used to identify where travel capacity will be needed and to determine the infrastructure requirements necessary to meet that need. The travel demand forecast model predicts the total daily vehicle miles traveled.

Indiana used the Motor Vehicle Emission Simulator (MOVES), EPA's recommended mobile source model, to develop on-road emissions rates. The modeling inputs to MOVES, which include detailed transportation data (e.g., vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), were provided by NIRPC.

On-road mobile source emissions were calculated from emissions factors produced by EPA's MOVES model and data extracted from the region's travel-demand forecast model. The inputs assume the continued phase-in of the Tier 3 standards beginning in 2017, continued operation of Indiana's vehicle I/M program, and reformulated gasoline program.

The annual emissions provided by this inventory are then used to calculate average summer day emissions using EPA guidance on how the model estimates daily emissions. The monthly profile percentages for June, July, and August were added together and then divided by the number of days in the season (92).

Emissions for Illinois and Wisconsin were based on

inventories developed by those states in 2016 for an earlier round of redesignation requests. For the current document, 2011 and 2030 emissions are directly taken from these earlier inventories, whereas 2019 emissions were determined by interpolation from these inventories. 2035 emissions were determined by a projection from these inventories.

Using the inventories described above, Indiana's submittal documents changes in VOC and NO<sub>x</sub> emissions from 2011 to 2019 for the Indiana portion of the Chicago area. Emissions data are shown in Tables 2 and 3.

**Table 2. Emissions Reduction of NO<sub>x</sub> emissions for the Illinois, Indiana and Wisconsin portions of the Chicago nonattainment area 2011-2019 (tons/day)**

Sector	2011 nonattainment year	2019 attainment year	Emissions Reduction
<b>Illinois</b>			
EGU Point	67.41	35.23	32.18
Non-EGU	52.58	47.55	5.03
Area	32.03	34.63	-2.6
On-Road	285.34	134.38	150.96
Non-road	176.60	121.63	54.97
Total	613.96	373.42	240.54
<b>Indiana</b>			
EGU Point	24.04	4.29	19.75
Non-EGU	70.77	59.91	10.86
Area	9.39	0.91	8.48
On-road	24.70	14.91	9.79
Non-road	15.84	13.43	2.41
Total	144.74	93.45	51.29
<b>Wisconsin</b>			
EGU Point	8.71	0.00	8.71
Non-EGU	0.09	0.08	0.01
Area	1.20	1.13	0.07
On-Road	4.82	1.81	3.01
Non-road	2.25	1.64	0.61
Total	17.07	4.66	12.41
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>			
Illinois	613.96	373.42	240.54
Indiana	144.74	93.45	51.29
Wisconsin	17.07	4.66	12.41

Total	775.77	471.53	304.24
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**Table 3. Emissions Reduction of VOC emissions for the Illinois, Indiana and Wisconsin portions of the Chicago nonattainment area 2011-2019 (tons/day)**

Sector	2011	2019	Emissions Reduction
<b>Illinois</b>			
EGU Point	0.62	0.97	-0.35
Non-EGU	47.63	45.35	2.28
Area	215.14	232.00	-16.86
On-Road	72.43	66.45	5.98
Non-road	101.83	67.67	34.16
Total	437.65	412.44	25.21
<b>Indiana</b>			
EGU Point	0.54	0.47	0.07
Non-EGU	17.22	10.83	6.39
Area	18.26	17.00	1.26
On-road	9.58	6.80	2.78
Non-road	21.43	5.53	15.90
Total	67.03	40.63	26.40
<b>Wisconsin</b>			
EGU Point	0.38	0.00	0.38
Non-EGU	0.24	0.19	0.05
Area	4.10	3.58	0.52
On-Road	1.90	0.89	1.01
Non-road	1.14	0.70	0.44
Total	7.76	5.36	2.40
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>			
Illinois	437.65	412.44	25.21
Indiana	67.03	40.63	26.40
Wisconsin	7.76	5.36	2.40
Total	512.44	458.43	54.01

As shown in Tables 2 and 3, NO<sub>x</sub> and VOC emissions in the Indiana portion of the Chicago area declined by 51.29 tons/day and 26.40 tons/day, respectively, between 2011 and 2019. NO<sub>x</sub> and VOC emissions throughout the entire Chicago area declined by 304.24 tons/day and 54.01 tons/day, respectively, between 2011 and 2019.

### 3. Meteorology.

To further support IDEM's demonstration that the

improvement in air quality between the year violations occurred and the year attainment was achieved is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by the Lake Michigan Air Directors Consortium (LADCO). A classification and regression tree (CART) analysis was conducted with 2005 through 2020 data from Chicago-area ozone monitors. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

Regression trees were developed for the monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed that, reducing the impact of meteorology, the resulting trends in ozone concentrations declined over the period examined, supported the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

*D. Does Indiana have a fully approvable ozone maintenance plan for the Indiana portion of the Chicago area?*

As one of the criteria for redesignation to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine

that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to ensure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS, IDEM submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2035, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Indiana's ozone maintenance

plan includes the necessary components and to approve the maintenance plan as a revision of the Indiana SIP.

1. Attainment inventory.

EPA is proposing to determine that the Indiana portion of the Chicago area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2019-2021. IDEM selected 2019 as the attainment emissions inventory year to establish attainment emission levels for VOC and NOx. The attainment emissions inventory identifies the levels of emissions in the Indiana portion of the Chicago area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 2 and 3 above.

2. Has the state documented maintenance of the ozone standard in the Indiana portion of the Chicago area?

Indiana has demonstrated maintenance of the 2008 ozone NAAQS through 2035 by ensuring that current and future emissions of VOC and NOx for the Indiana portion of the Chicago area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099-53100 (October 19, 2001), 68 FR 25413, 25430-25432 (May 12, 2003).

Indiana is using emissions inventories for the years 2030



and 2035 to demonstrate maintenance. 2035 is more than 10 years after the expected effective date of the redesignation to attainment and 2030 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

Area and non-road mobile emissions were collected from data available on EPA's Air Emissions Modeling website. Using Emissions Modeling platform 2016v1, IDEM collected data for the 2023, 2028, and 2032 projected inventories.

Indiana's 2030 emissions for point, area, and non-road source sectors were estimated primarily by interpolating between EPA's projected modeling inventories for 2023, 2028, and 2032. 2035 emissions for point, area, and non-road source sectors were derived by utilizing the FORECAST.LINEAR function in Excel with inventory data points from 2016, 2023, 2028, and 2032. If the FORECAST.LINEAR function resulted in a negative value, the emissions were assumed not to change. EGU-point emissions for 2030 were estimated from the Eastern Regional Technical Advisory Committee (ERTAC) model. Summer day inventories were derived for these sectors using the methodology described in section IV.V.2. above.

On-road mobile source emissions were developed through the combined effort of IDEM and the NIRPC and were calculated from emission factors produced by EPA's MOVES model and data extracted from the region's travel-demand model. The on-road

2030 and 2035 emission estimates are based on the actual travel demand model network runs generating estimated emissions to exist for those years under the Northwest Indiana 2050 Transportation Plan.

Projected emissions data are shown in Tables 4 through 5 below.

**Table 4. Projected Emissions of NO<sub>x</sub> emissions for the Illinois, Indiana, and Wisconsin portions of the Chicago nonattainment area 2030 and 2035 (tons/day)**

Sector	2019 attainment year	2030 interim year	2035 maintenance year	Emissions Reduction 2019-2035
<b>Illinois</b>				
EGU Point	35.23	43.59	40.97	-5.74
Non-EGU	47.55	48.56	49.28	-1.73
Area	34.63	34.97	35.04	-0.41
On-Road	134.38	55.94	48.81	85.57
Non-road	121.63	106.80	108.27	13.36
Total	373.42	289.86	282.37	91.05
<b>Indiana</b>				
EGU Point	4.29	1.44	0.42	3.87
Non-EGU	59.91	60.79	61.51	-1.60
Area	0.91	0.88	0.87	0.04
On-road	14.91	6.62	5.51	9.40
Non-road	13.43	10.25	8.49	4.94
Total	93.45	79.98	76.80	16.65
<b>Wisconsin</b>				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.08	0.12	0.12	-0.04
Area	1.13	0.95	0.96	0.17
On-Road	1.81	0.85	0.75	1.06
Non-road	1.64	1.21	1.21	0.43
Total	4.66	3.13	3.04	1.62
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>				
Illinois	373.42	289.86	282.37	91.05
Indiana	93.45	79.98	76.80	16.65
Wisconsin	4.66	3.13	3.04	1.62
Total	471.53	372.97	362.21	109.32

**Table 5. Projected Emissions of VOC emissions for the Illinois, Indiana, and Wisconsin portions of the Chicago nonattainment area 2030 and 2035 (tons/day)**

Sector	2019 attainment year	2030 interim year	2035 maintenance year	Emissions Reduction 2019-2035
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<b>Illinois</b>				
EGU Point	0.97	2.52	2.80	-1.83
Non-EGU	45.35	44.71	44.54	0.81
Area	232.00	225.11	225.11	6.89
On-Road	66.45	37.42	34.27	32.18
Non-road	67.67	66.41	67.37	0.30
Total	412.44	376.17	374.09	38.35
<b>Indiana</b>				
EGU Point	0.47	0.56	0.67	-0.20
Non-EGU	10.83	10.84	10.90	-0.07
Area	17.00	17.58	17.85	-0.85
On-road	6.80	3.77	2.93	3.87
Non-road	5.53	4.80	4.35	1.18
Total	40.63	37.55	36.70	3.93
<b>Wisconsin</b>				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.19	0.26	0.26	-0.07
Area	3.58	3.49	3.56	0.02
On-Road	0.89	0.54	0.47	0.42
Non-road	0.70	0.63	0.62	0.08
Total	5.36	4.92	4.91	0.45
<b>Chicago-Naperville, IL-IN-WI 2008 ozone area</b>				
Illinois	412.44	376.17	374.09	38.35
Indiana	40.63	37.55	36.70	3.93
Wisconsin	5.36	4.92	4.91	0.45
Total	458.43	418.64	415.70	42.73

In summary, Indiana's maintenance demonstration for the Indiana portion of the Chicago area shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO<sub>x</sub> and VOC will remain at or below 2019 emission levels when considering both future source growth and implementation of future controls. As shown in Tables 4 and 5, NO<sub>x</sub> and VOC emissions in the Indiana portion of the Chicago area are projected to decrease by 16.65 tons/day and 3.93 tons/day, respectively, between 2019 and 2035. NO<sub>x</sub> and VOC emissions in the entire Chicago area are projected to decrease by 109.32 tons/day and 42.73 tons/day, respectively, between 2019 and 2035.

3. Continued air quality monitoring.

Indiana has committed to continue to operate the ozone monitors listed in Table 1 above. Indiana has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Indiana remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of continued attainment.

Indiana has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Indiana portion of the Chicago area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. IDEM will continue to operate the current ozone monitors located in the Indiana portion of the Chicago area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, Indiana will continue to develop and submit to EPA updated emission

inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Indiana was compiled for 2014. Point source facilities covered by Indiana's emission statement rule, 326 IAC 2-6-1, will continue to submit VOC and NOx emissions on an annual basis.

5. What is the contingency plan for the Indiana portion of the Chicago area?

Section 175A of the CAA requires that the state adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to ensure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: the contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in

the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan for the Indiana portion of the Chicago area to address possible future ozone air quality violations. The contingency plan adopted by Indiana has two levels of response, a warning level response and an action level response.

In Indiana's plan, a warning level response will be triggered when an annual (1-year) fourth high monitored value of 0.079 ppm occurs in a single ozone season or when a two-year average fourth high monitored value of 0.076 ppm or higher occurs within the maintenance area. A warning level response will consist of Indiana conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Indiana's plan, an action level response is triggered when a three-year average fourth high value of 0.076 ppm or greater is monitored within the maintenance area. When an action level response is triggered, Indiana will determine what

additional control measures are needed to ensure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. IDEM may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Indiana included the following list of potential contingency measures in its maintenance plan:

1. Enhancements to the vehicle emissions testing (I/M) program (increased weight limit, addition of diesel vehicles, etc.)
2. Asphalt paving (lower VOC formulation)
3. Diesel exhaust retrofits
4. Traffic flow improvements
5. Idle reduction programs
6. Portable fuel container regulation (statewide)
7. Park and ride facilities
8. Rideshare/carpool program
9. VOC cap/trade program for major stationary sources
10. NOx Reasonably Available Control Technology

However, Indiana is not limited to the contingency measures listed above. To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Indiana notes that because it is not possible to determine what control

measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Indiana's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Indiana has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Indiana portion of the Chicago area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by IDEM for the Indiana portion of the Chicago area meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Indiana SIP.

**V. Has the state adopted approvable motor vehicle emission budgets?**

*A. Motor Vehicle Emission Budgets*

Under section 176(c) of the CAA, new transportation plans, programs or projects that receive Federal funding or support, such as the construction of new highways, must "conform" to (*i.e.*, be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause or contribute to any new air quality violations, increase the frequency or severity of any existing air quality problems, or delay timely attainment or any required interim emissions reductions or any



other milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP.

Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved CAA section 175A maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. See the SIP requirements for the 2015 ozone NAAQS in EPA's December 6, 2018, implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include motor vehicle emissions budgets (or budgets) for criteria pollutants, including ozone and their precursor pollutants (VOC and NO<sub>x</sub>) to address pollution from on-road transportation sources. The budgets are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. See 40 CFR 93.101.

Under 40 CFR part 93, a budget for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt

budgets for other years as well. The budgets serves as a ceiling on emissions from an area's planned transportation system. The budget concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the budget(s) in the SIP and how to revise the budget(s), if needed, subsequent to initially establishing a budget(s) in the SIP.

Indiana's maintenance plan includes NOx and VOC motor vehicle emissions budgets for the Indiana portion of the Chicago area for 2030 and 2035, the last year of the maintenance period and an interim year. The budgets were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The budgets were clearly identified and precisely quantified. These budgets, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

**Table 6. Motor Vehicle Emissions Budgets for the Indiana portion of the Chicago area 2008 ozone Maintenance Plan (tons/day)**

Pollutant	2030 Budget	2035 Budget
NOx	6.62	5.51
VOC	3.77	2.93

EPA is proposing to approve the budgets for use to determine transportation conformity in the Indiana portion of the Chicago area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with onroad mobile source emissions at the levels of the budgets.

Also, EPA is reviewing the budgets to determine if the

submitted budgets meet the adequacy criteria in the transportation conformity regulations (40 CFR 93.118(e)(4)). Additionally, as required by the transportation conformity rule (40 CFR 93.118(f)(2)), EPA is using this proposal to notify the public that EPA that it is beginning a 30-day comment period on the adequacy of the submitted motor vehicle emissions budgets. Comments on the adequacy of the budgets should be submitted to the docket for this proposal. EPA will make a final determination on the adequacy of the submitted budgets either in a final action on this proposal or notifying the State in writing, notifying the public by publishing a *Federal Register* notice and announcing the determination on EPA's adequacy web page.<sup>6</sup>

*B. What is a safety margin?*

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 4 and 5 above, the emissions in the Indiana portion of the Chicago area are projected to have safety margins of 16.65 tons/day for NO<sub>x</sub> and 3.93 tons/day for VOC in 2035 (the difference between the attainment year, 2019, emissions and the projected 2035 emissions for all sources in the Indiana portion of the Chicago area). Similarly, there is a safety margin of 13.47 tons/day for NO<sub>x</sub> and 3.08 tons/day for VOC in 2030. Even

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<sup>6</sup> See [www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity](http://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity).

if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Indiana is not allocating any of the safety margin to the mobile source sector. Indiana can request an allocation to the budgets of the available safety margins reflected in the demonstration of maintenance in a future SIP revision. The transportation conformity regulations allow states to allocate all or a portion of a documented safety margin to the motor vehicle emissions budgets for an area (40 CFR 93.124(a)).

#### **VI. Section 182(f) NO<sub>x</sub> exemption.**

Section 182(f) establishes NO<sub>x</sub> emission control requirements for ozone nonattainment areas. It provides that these emission control requirements, however, do not apply to an area if the Administrator determines that NO<sub>x</sub> emission reductions would not contribute to attainment of the ozone standard. EPA's January 2005 document, "Guidance on Limiting Nitrogen Oxides Requirements Related to 8-Hour Ozone Implementation," provides guidance for demonstrating that further NO<sub>x</sub> reduction in an ozone nonattainment area will not contribute to ozone attainment. The guidance provides that three consecutive years of monitoring data showing attainment of the standard without implementation of section 182(f) NO<sub>x</sub> provisions is adequate to demonstrate that "additional reductions of oxides of nitrogen would not contribute to attainment . . . ." CAA section 182(f)(1)(A). As described in

the guidance document, approval of this type of NO<sub>x</sub> exemption is contingent on continued monitored attainment of the standard.

On January 18, 2022, Indiana submitted a request for a waiver from the section 182(f) NO<sub>x</sub> requirements for the Indiana portion of the Chicago area based on monitoring data for the years 2019–2021 showing attainment of the 2008 ozone standard in the area. Based on these data, EPA is proposing to approve Indiana's request for an exemption from the section 182(f) NO<sub>x</sub> requirements in the Indiana portion of the Chicago area. Upon final approval of the NO<sub>x</sub> waiver, Indiana will not be required to adopt and implement NO<sub>x</sub> emission control regulations pursuant section 182(f) for the Indiana portion of the Chicago area to qualify for redesignation. If the Chicago area violates before redesignation, then EPA would not be able to finalize approval of a NO<sub>x</sub> waiver.

#### **VII. VOC RACT in the Indiana portion of the Chicago area.**

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in ozone nonattainment areas classified as Moderate (and higher). Specifically, these areas are required to implement RACT for all major VOC emissions sources and for all sources covered by a Control Techniques Guideline (CTG). The major source threshold for serious nonattainment ozone areas is a potential to emit (PTE) 50 tons per year (TPY). A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. States must submit rules, or negative declarations when no such sources exist for

CTG source categories.

EPA's final rule to implement the 2008 ozone NAAQS (SIP Requirements Rule) indicates that states may meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in their SIPs approved by EPA for a prior ozone NAAQS also represent adequate RACT control levels for attainment of the 2008 ozone NAAQS, or with a combination of these two approaches (80 FR 12264). In addition, a state may submit a negative declaration in instances where there are no CTG covered sources.

Indiana's VOC RACT demonstration under the Moderate classification was fully approved into the SIP by EPA on February 13, 2019, effective March 15, 2019 (84 FR 3711). Indiana certifies that the Indiana portion of the Chicago area's moderate area VOC RACT program also satisfies Serious area VOC RACT requirements.

Indiana certifies that the existing VOC rules contained in 326 Indiana Administrative Code (IAC) Article 8 satisfy the Serious area VOC RACT requirements for the Indiana portion of the Chicago area under the 2008 8-hour ozone NAAQS. The Serious major source threshold of 50 tons per year is addressed for non-CTG sources in 326 IAC 8-7.

Indiana certifies that the negative declaration for the CTGs for Fiberglass Boat Manufacturing Materials, submitted June 5, 2009, and approved by EPA on February 24, 2010, is still up

to date (75 FR 8246). Indiana certifies that the negative declaration for the CTGs for the Oil and Natural Gas Industry submitted October 25, 2018, and approved by EPA on December 13, 2019, is still up to date (84 FR 68050). Therefore, EPA is proposing to find that Indiana's submittal has met VOC RACT requirements for its portion of the Chicago area for the 2008 ozone NAAQS.

#### **VIII. Clean Fuels Vehicles Program (CFVP).**

CAA section 182(c)(4) requires states with ozone nonattainment areas classified as Serious or higher to submit a SIP revision request describing implementation of a CFVP, as described in CAA title II part C (40 CFR 88). EPA approved Indiana's CFVP on March 21, 1996 (61 FR 11552). CAA section 182(c)(4) included numerical standards for the CFVP that were intended to encourage innovation and reduce emissions for fleets of motor vehicles in certain nonattainment areas as compared to conventionally fueled vehicles available at the time. As originally adopted, those Clean Fuel Fleet standards were substantially more stringent than the standards that applied to vehicles and engines generally. Now that EPA has begun implementing Tier 3 emission standards in 40 CFR part 86, subpart S, the Clean Fuel Fleet standards are either less stringent than or equivalent to the standards that apply to vehicles and engines generally. On July 29, 2021 (86 FR 34308), EPA published a final rule in which EPA determined that vehicles and engines certified to current emission standards under 40 CFR

part 86 or 1036 are deemed to also meet the Clean Fuel Fleet standards as Ultra Low-Emission Vehicles.

#### **IX. Enhanced Monitoring of Ozone and Ozone Precursors (EMP).**

Section 182(c)(1) of the CAA requires states with nonattainment areas classified as Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO<sub>x</sub> and VOC. EPA initiated the PAMS program in February 1993. See 40 CFR part 58, appendix D. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as Serious, Severe, or Extreme. On March 16, 1994 (59 FR 12168), EPA approved Indiana's SIP submission establishing an enhanced monitoring program in the Indiana portion of the Chicago area as required by Section 182(c)(1) of the CAA.

Since that time, EPA has concluded that requiring enhanced monitoring for ozone nonattainment areas classified as Moderate or above is appropriate for the purposes of monitoring ambient air quality and better understanding ozone pollution. In EPA's revision to the ozone standard on October 1, 2015, EPA relied on the authority provided in sections 103(c), 110(a)(2)(B), 114(a) and 301(a)(1) of the CAA to expand the PAMS applicability to areas other than those that are Serious or above ozone nonattainment and substantially to revise the PAMS requirements in 40 CFR part 58, appendix D (80 FR 65292). Specifically, this rule required states with Moderate and above ozone nonattainment areas to develop and implement an EMP. These plans should



detail enhanced ozone and ozone precursor monitoring activities to be performed to better understand area-specific ozone issues.

Indiana will continue to meet its CAA section 182(c)(1) EMP requirements by maintaining an air monitoring network in the Indiana portion of the Chicago area and working with EPA through the air monitoring network review process, as required by 40 CFR part 58, to determine the adequacy of the ozone monitoring network, additional monitoring needs, and recommended monitor decommissions. Air monitoring data from these monitors will continue to be quality assured, reported, and certified according to 40 CFR part 58.

Therefore, EPA is proposing to find that Indiana has met the EMP requirements of Section 182(c)(1) for the Indiana portion of the Chicago area for the 2008 ozone NAAQS.

**X. Enhanced I/M in the Indiana portion of the Chicago area.**

CAA section 182(c)(3) requires states with ozone nonattainment areas classified as Serious or higher to implement an Enhanced vehicle I/M program. The general purpose of motor vehicle I/M programs is to reduce emissions from in-use motor vehicles in need of repairs and thereby contribute to state and local efforts to improve air quality and to attain the NAAQS.

The 1990 CAA Amendments set additional requirements for I/M programs. For Moderate areas, a "Basic" program is required under section 182(b)(4). For Serious or worse areas, an "Enhanced" program is required under section 182(c)(3). EPA's requirements for Basic and Enhanced I/M programs are found in 40

CFR part 51, Subpart S.

On June 6, 1995, and on September 28, 1995, IDEM submitted SIP revisions establishing an Enhanced I/M program in accordance with the requirements of the CAA as amended in 1990. The new Enhanced I/M program replaced the Basic I/M program in operation at the time in Lake, Porter, Clark, and Floyd counties. EPA fully approved Indiana's Enhanced I/M program on March 19, 1996 (61 FR 11149), including the program's legal authority and administrative requirements in 326 Indiana Administrative Code 13-1.1. On June 8, 2000, Indiana submitted amendments to the I/M rule incorporating, among other things, provisions for the testing of vehicles equipped with second generation on-board diagnostics systems (OBD). EPA approved those provisions on September 27, 2001 (66 FR 49297).

To support their certification of Indiana's Enhanced I/M program, the NIRPC, on behalf of IDEM, performed a modeling demonstration that the current I/M program meets the requirements of EPA's Enhanced performance standard for areas designated and classified under the 8-hour ozone standard, as specified in 40 CFR 51.351(i). NIRPC used EPA's MOVES emissions model in making this demonstration. The demonstration involves a comparison of emission reductions from EPA's model program specified in 40 CFR 51.351(i) and Indiana's actual program in Lake and Porter Counties.

To demonstrate that an Enhanced I/M program meets the performance standard, the actual I/M program must obtain the

same or lower emission levels as the model EPA program within  $\pm 0.02$  gram per mile. Indiana's I/M performance standard analysis shows that Indiana's I/M program achieves emission reductions that are at least as great as this criterion. Indiana's demonstration supports its certification that its current I/M program in Lake and Porter counties meets the applicable Enhanced I/M performance standard requirements in 40 CFR part 51, subpart S for the 2008 ozone NAAQS.

#### **XI. Proposed actions.**

EPA is proposing to determine that the Chicago area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2019-2021. EPA is proposing to approve Indiana's January 18, 2022, NO<sub>x</sub> exemption request as meeting section 182(f) requirements of the CAA. EPA is proposing to determine that if and when EPA approves Indiana's NO<sub>x</sub> exemption request, VOC RACT, EMP, CFVP, and Enhanced I/M program SIP submittals, the Indiana portion of the Chicago area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Indiana portion of the Chicago-Naperville, IL-IN-WI area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Indiana SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Indiana portion of the Chicago area in attainment of the 2008 ozone NAAQS through 2035. EPA finds adequate and is

proposing to approve the newly established 2030 and 2035 motor vehicle emissions budgets for the Indiana portion of the Chicago area. Finally, EPA is proposing to approve the VOC RACT, CFVP, EMP, and Enhanced I/M program SIP revisions included in Indiana's December 29, 2020, and January 18, 2022, submittals, because they satisfy the Serious requirements of the CAA for the Indiana portion of the Chicago area.

## **XII. Statutory and executive order reviews.**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by

the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

#### **List of Subjects**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

##### *40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 22, 2022.

Debra Shore,  
*Regional Administrator, Region 5.*